

902 KAR 9:010. Environmental health.

RELATES TO: KRS 211.920, 211.925, 211.935, 217.015(20)

STATUTORY AUTHORITY: KRS 194A.050(1), 211.925

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the Cabinet for Health and Family Services to promulgate administrative regulations necessary to protect, develop, and maintain the health, personal dignity, integrity, and sufficiency of the individual citizens of the Commonwealth and necessary to operate the programs and fulfill the responsibilities vested in the cabinet. KRS 211.925 authorizes the cabinet to promulgate administrative regulations and standards relating to the public health or health aspects of the operation of state confinement facilities. This administrative regulation establishes uniform standards of institutional sanitation to safeguard the health of persons confined in state confinement facilities, by providing for the opportunity to pursue adequate personal hygiene for health maintenance, control of the incidence and spread of disease, and maintenance of sanitary living conditions.

Section 1. Definitions. (1) "Cabinet" is defined by KRS 211.920(1).

(2) "Cell" means a room designated to provide sleeping and personal storage facilities for no more than two (2) inmates.

(3) "Confinement housing unit" means a residential structure that:

(a) Is intended for occupancy by inmates of a state confinement facility; and

(b) May include:

1. Wings, levels, or sections containing inmate living areas; and

2. Facilities for:

a. Food preparation, service, and dining;

b. Medical treatment;

c. Physical exercise;

d. Education;

e. Visitation;

f. Storage; or

g. Other functions necessary for the operation and maintenance of the unit.

(4) "Dormitory" means a room designated to provide sleeping and personal storage facilities for three (3) or more inmates.

(5) "Inmate" means any person confined or assigned to residence in a state confinement facility.

(6) "Inmate space" means the living area, as measured in gross square feet of floor space, required for each inmate within a confinement housing unit.

(7) "Living area" means the cell or dormitory to which an inmate is assigned for housing, and includes common areas, personal hygiene facilities, and other areas within a confinement housing unit that are normally accessible to an inmate on a daily basis.

(8) "Personal hygiene facility" means a room or rooms that contain sanitary fixtures such as lavatories, water closets, showers or bathtubs, and other necessary appurtenances for maintaining inmate personal hygiene.

(9) "Tempered water" means a water temperature of at least ninety (90) degrees Fahrenheit to a maximum temperature of 110 degrees Fahrenheit.

Section 2. Sanitary Facilities and Controls. (1)(a) The water supply shall be potable, adequate, and from an approved public supply of a municipality or water district, if available.

(b) If not available, the supply shall be developed and approved pursuant to applicable requirements of 401 KAR Chapter 8.

(c) If a public water supply subsequently becomes available, connections shall be made to this supply, and the state confinement facility's supply shall be discontinued.

(2)(a) All sewage and liquid waste matter shall be disposed of into a public sewer system, if available.

(b) If a public sewer system is not available, disposal shall be made into a private sewage disposal system designed, constructed, and operated pursuant to 902 KAR 10:085.

(c) If an adequate public sewer system subsequently becomes available, connections shall be made to this system, and the state confinement facility's sewage disposal system shall be discontinued.

(3) A drinking fountain or a potable water service fixture with individual single service drinking cups shall be accessible to inmates in their living area pursuant to the requirements of 815 KAR Chapter 20. The use of a common drinking vessel shall be prohibited.

(4) Each confinement housing unit shall include personal hygiene facilities within the unit that contain sanitary fixtures meeting the requirements of 815 KAR Chapter 20 as to design, fixture type, and numbers of fixtures.

(5) All personal hygiene facilities shall be designed and constructed pursuant to the requirements of 815 KAR 7:120. All walls, floors, ceilings, partitions, sanitary fixtures, and appurtenances shall be maintained in a sanitary condition and in good repair.

(6) An adequate supply of clean washcloths, towels, and clothing, and toilet tissue, soap, and similar personal hygiene articles shall be issued to each inmate as necessary to maintain hygiene.

(7) Hot and cold or tempered water shall be supplied to all lavatories, showers, and bathtubs, and all hot or tempered water supply lines to the fixtures shall be protected by temperature and pressure control devices approved for use by 815 KAR Chapter 20 to prevent scalding.

(8) All plumbing shall comply with 815 KAR Chapter 20.

(9) All refuse shall be:

(a) Kept in containers that are:

1. Leak-proof;
2. Non-absorbent;
3. Flame-retardant; and
4. Routinely cleaned; and

(b) Removed from confinement housing units on a daily basis and be disposed of at least weekly or more often if necessary in accordance with 401 KAR Chapter 30.

Section 3. Facilities and Equipment. (1) Each confinement housing unit shall provide a minimum inmate space of sixty (60) square feet for each inmate housed within that unit.

(2) Each cell and dormitory shall:

(a) Have at least eight (8) foot ceilings;

(b) Contain a bed for each inmate; and

(c) Provide facilities for storage of inmates' personal belongings, including clothing and towels.

(3) All floors, walls, ceilings, and equipment of confinement housing units shall be constructed pursuant to 815 KAR 7:120. All parts of the confinement housing unit and its premises shall be kept in good repair, clean, neat, and free of refuse.

Section 4. Lighting. Each confinement housing unit shall be provided with natural or artificial light sufficient to provide twenty (20) foot candles of light for reading purposes, to permit observation, and for proper cleaning and maintenance. All light fixtures shall be kept in good re-

pair and clean.

Section 5. Heating, Cooling and Ventilation. (1) All confinement housing units shall be provided with heating, cooling, and ventilation equipment as required by 815 KAR 7:120.

(2) Ventilation, through natural or mechanical means, shall be sufficient to provide fresh air and remove disagreeable odors.

Section 6. Vermin Control. (1) Effective measures to control the presence of rodents, flies, roaches, and other vermin on the premises shall be utilized. The premises shall be kept in a condition as to prevent the harborage or breeding of vermin.

(2) Openings to the outside shall be protected against the entrance of rodents, insects, and other vermin by tight-fitting, self-closing doors, closed windows, screening, or controlled air currents. Screening material shall not be less than sixteen (16) mesh to one (1) inch.

Section 7. Bedding. (1) As a minimum, each inmate in a state confinement facility shall be provided with:

- (a) An approved flame-retardant and water-repellent mattress and pillow;
- (b) A pillowcase;
- (c) A sheet or cloth mattress cover; and
- (d) A blanket.

(2) If, in the sound discretion of the appropriate person in charge of the state confinement facility, any items listed in this section would constitute a danger or hazard to the inmate confined due to a behavior or mental condition, the items may be withheld.

(3) Mattresses, pillows, blankets, sheets, pillowcases, and mattress covers shall be kept in good repair and clean.

(4) Sheets, pillow cases, and mattress covers, if used without sheets, shall be changed and laundered at least weekly and before being issued to another inmate.

Section 8. Exercise. Adequate space shall be provided within the state confinement facility to allow all inmates an opportunity to obtain physical exercise.

Section 9. Medical Examination Room. Adequate space shall be provided within the state confinement facility to allow for medical examination of inmates.

Section 10. Food Service. All state confinement facilities shall comply with the food service provisions of 902 KAR 45:005. If food for inmates is not prepared by the state confinement facility, food shall be obtained from a commercial food service establishment holding a valid permit from the cabinet.

Section 11. Food Manufacturing. All food manufacturing and processing conducted at state confinement facilities shall be operated pursuant to 902 KAR 45:160.

Section 12. Existing Facilities and Equipment. Facilities and equipment being used by existing state confinement facilities, which do not fully meet the design and construction requirements of this administrative regulation, may be continued in use, if the facility or equipment:

- (1) Is in good repair;
- (2) Is capable of being maintained in a sanitary condition; and
- (3) Does not create a health hazard.

Section 13. Plan Review of Construction. Plans for alteration or new construction of state confinement facilities shall be submitted to the appropriate agencies for approval.

Section 14. Inspection of State Confinement Facilities. (1) At least once each six (6) months, the cabinet shall inspect each state confinement facility and shall make as many additional inspections and reinspections as are necessary for carrying out the provisions of this administrative regulation.

(2) When an agent of the cabinet makes an inspection of a state confinement facility, the findings shall be recorded on the DFS-316, Confinement Facility Inspection Report, and a copy shall be provided to the warden or superintendent. If a deficiency is found, the inspection report shall:

- (a) Set forth the specific deficiencies found;
- (b) Identify any variances previously granted;
- (c) Establish a specific and reasonable period of time for the correction of the deficiency found; and
- (d) State that failure to comply with any notice issued pursuant to the provisions of this administrative regulation may result in the initiation of legal action.

Section 15. Enforcement Hearings. For purposes of enforcement, if the warden or superintendent has failed to comply with any written notice or order issued under the provisions of this administrative regulation, they shall be notified in writing that legal action may be instituted against the state confinement facility in accordance with KRS 211.935.

Section 16. Variance Hearings. (1) A warden or superintendent of a state confinement facility may request in writing that the cabinet consider granting a variance to any provision of this administrative regulation.

(2) A written request for a variance shall include all pertinent information about the facility, the specific provision of the administrative regulation affected, the specific reason for the request, and evidence in support of the request.

(3) Upon receipt of a request for a variance, the cabinet shall review the request and establish a date, time, and location for the convening of an administrative hearing.

(4) The requesting authority shall be notified of the date, time, and location of the hearing within ten (10) working days of the receipt of the request, and at least five (5) working days prior to the date of the hearing.

(5) The hearing officer shall recommend that the variance be granted or denied, and may recommend that legal action be pursued.

(6) A variance shall only be granted upon written determination that the variance will not endanger the health of those confined in the facility or the public health. Any variance so granted may be with or without stipulations or restrictions.

Section 17. Incorporation by Reference. (1) DFS-316, Confinement Facility Inspection Report, 10/18, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at Environmental Management Branch, Division of Public Health Protection and Safety, Department for Public Health, 275 East Main Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. (3 Ky.R. 373; eff. 10-6-1976; Am. 10 Ky.R. 179; eff. 8-3-1983; 16 Ky.R. 2063; eff. 5-13-1990; 2362; eff. 8-1-1996; 45 Ky.R. 3564, 46 Ky.R. 439; eff. 8-19-2019.)